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ORANGE COUNTY LOS ANGELES SAN FRANCISCO SACRAMENTO FRESNO

February 22, 2022

Zachary Kweller, Esq.
Pacific Workers' Compensation Law Center
333 Hegenberger Rd., Ste. 504
Oakland, CA 94621

Re: Jonathan Shockley v. Biotelemetry, Inc. dba Cardionet, LLC

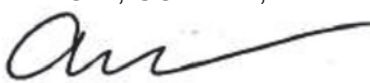
WCAB No: ADJ12031731
Claim No: 040519008736

Dear Mr. Kweller:

Please find attached defendant's proposed correspondence to be sent to QME Dr. Stoller in conjunction with their examination of the Applicant, scheduled for February 24, 2022. Please let me know within ten days if you have any objections to this letter.

Kindest Regards,

COLANTONI, COLLINS, MARREN, PHILLIPS & TULK, LLP

BY: 
AMY E. OLSON

AEO/mg

cc: *Mario Castro/Chubb Group of Insurance Companies (Via Email Only)*
wcclaimsw2@chubb.com



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February 22, 2022

DEFENSE PANEL QME INTERROGATORY

Adam Stoller, M.D.
1900 O'Farrell St., Ste. #190
San Mateo, CA 94403

Re: Jonathan Shockley v. Biotelemetry, Inc. dba Cardionet, LLC

WCAB No: ADJ12031731
Claim No: 040519008736

Dear Dr. Stoller:

Thank you for agreeing to evaluate the above-named Applicant in the capacity of a Panel Qualified Medical Examiner in your **San Francisco** office on **February 24, 2022 at 1:45 p.m.**

Please be advised this correspondence is being sent to you as a defense interrogatory on behalf of Defendants, Biotelemetry, Inc. dba Cardionet, LLC: administered by Chubb Indemnity Insurance Company.

Please allow this correspondence to serve as authorization for you to perform any diagnostic testing which you believe is necessary in order for you to complete your evaluation of Applicant.

Background Information

You have evaluated this Applicant on numerous occasions and have since declared him Permanent and Stationary. At your deposition of December 15, 2021, you advised of the need to re-examine the Applicant in order to take a detailed family history, and a more detailed personal history of the Applicant to confirm what impairment, if any, is based upon objective evidence, and what impairment is determined based on Applicant's subjective complaints.

Inquiries

It is requested that you kindly carefully review the enclosed pleadings, and medical reports and incorporate same into your forthcoming report. Additionally, it is requested you comment upon

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Applicant's current medical status, including whether she has reached Maximum Medical Improvement in addition to addressing the issue of apportionment.

Kindly ensure your report addresses the American Medical Association Guides to the Evaluation of Permanent Impairment, 5th Edition, guides in writing your report. Also, please ensure that you include the corresponding Whole Person Impairment (WPI) rating.

It is requested that your report cover the following:

1. A detailed medical history
2. Your diagnosis
3. Whether or not the medical findings are consistent with the original incident or injury(ies) claimed by the Applicant.
4. Whether or not any further medical treatment is reasonably necessary to cure or relieve the effects of the injury(ies).
5. If disability exists, is it industrially caused or aggravated?
 - a) If disability exists, is it the result of a specific incident or incidents or is it the result of one or more periods of cumulative trauma. If disability is a result, either in whole or in part, of one or more periods of cumulative trauma, please state your opinion when each period commenced and ended.
 - b) If disability exists, was there a precipitating cause of all or part of this disability?
6. IF THE DISABILITY IS INDUSTRIALLY CAUSED OR AGGRAVATED, IS IT:
 - A) TEMPORARY TOTAL?
 - B) TEMPORARY PARTIAL? IF SO, GIVE EXTENT OF ABILITY TO WORK.
 - C) WHEN WAS APPLICANT NO LONGER TEMPORARILY DISABLED?
7. If permanent and stationary and ready for rating, describe:

Permanent disability factors resulting from the industrial causation or aggravation. If you believe the Applicant should be restricted in job duties, please set forth with as much specificity as possible, those restrictions.

 - b) Whether there should be apportionment to non-industrial factors. If you believe there should be apportionment, please provide a discussion on this subject.
1. Factors, if any, which you believe pre-existed and are unrelated to, and not aggravated by, the industrial exposure.

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2. Was there a pre-existing condition which did interfere or would have actually interfered with any type of work activity? If you find a pre-existing non-industrial condition, please set forth with specificity the condition and the percentage of disability or impairment in the open labor market which Applicant has independent of the industrial injury.

3. The extent of the disability due to the natural progression of pre-existing factors which has resulted in symptoms or disability independent of employment. Please state the percentage of disability due to industrial factors and the percentage due to any pre-existing disability or any disability due to the natural progression of pre-existing factors.

Pursuant to recent changes to L.C. §4663, apportionment of permanent disability shall be based on causation. Any physician preparing reports on the issue of permanent disability must address the issue of causation. The physician must make an apportionment determination by finding what approximate percentage of the permanent disability was caused as a direct result of the work-related injury and what portion was caused by other factors, including prior industrial injuries or other non-industrial factors.

Pursuant to L.C. §4664, if an injured worker has received a prior award of permanent disability, it shall be conclusively presumed that the prior permanent disability exists at the time of any subsequent industrial injury.

Based on the foregoing, please indicate what the approximate percentage of Applicant's current disability is due to the industrial injuries alleged in this case and what percentage is due to a) any previous industrial injuries; b) any subsequent industrial injuries; and c) any non-industrial injuries, illnesses or pathology. Please provide a basis for any apportionment you give in your report.

8. Based upon your evaluation and disability determination, please state whether you believe the Applicant is capable of returning to his usual and customary employment activities.

9. Please discuss whether the treatment provided to date, or the treatment you are currently recommending, is reasonable and necessary to cure or relieve the effects of the industrial injury in compliance with the ACOEM guidelines, which includes the extent and scope of medical treatment rendered.

Recently enacted legislation (SB228) adopted evidence-based medicine (EBM) guidelines and the acceptance of the ACOEM guidelines as presumptively correct. The ACOEM guidelines promote "conservative care."

Please draft your report pursuant to the guidelines of the American Medical Association.

Please forward an original of your report to the Workers' Compensation Appeals Board, with copies to the attorneys for the parties. Your bill for services is to be sent to: Colantoni, Collins, Marren, Phillips & Tulk, LLP, Attn: Amy E. Olson, Esq., 555 Corporate Dr., Ste. #205, Ladera Ranch, CA 92694.

Your efforts in sending your report at your earliest convenience will be greatly appreciated.

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Kindest Regards,

COLANTONI, COLLINS, MARREN, PHILLIPS & TULK, LLP

BY: 

AMY E. OLSON

AEO/mg

Enc.: Schedule of Records

cc: Mario Castro/Chubb Group of Insurance Companies (Via Email Only)

wccclaimsw2@chubb.com

Zachary Kweller, Esq./Pacific Workers Oakland

**DECLARATION IN COMPLIANCE WITH LABOR CODE § 4062.3 and
TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS § 9793(n)
REGARDING RECORDS TO AME/QME**

Pursuant to Labor Code Section 4062.3, I, **AMY E. OLSON**, the attorney for Defendant, **CHUBB INDEMNITY INSURANCE COMPANY C/O.** , declare under penalty of perjury that I have

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complied with the provisions of Labor Code § 4062.3, and Title 8 of the California Code of Regulations § 9793(n) and have provided to the QME/AME total 5 combined pages for review as part of the medical-legal evaluation and preparation of the report. I have not violated Labor Code § 139.3 and I have not offered, delivered, received, or accepted any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for any referred examination or evaluation.

January 31, 2022



AMY E. OLSON

SCHEDULE OF RECORDS

Description

No updated medical reports as of 01/31/2022